In the Supreme Court of the United States

OCTOBER TERM, 1972

No. 72-824

BOARD OF EDUCATION OF THE CITY OF PLEASANT GROVE, PETITIONER

v.

JEFFERSON COUNTY BOARD OF EDUCATION, ET AL.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

On June 4, 1965, private plaintiffs filed this suit for the desegregation of the Jefferson County School District, and shortly thereafter the United States intervened. After a series of hearings, orders and appeals, the court of appeals on June 26, 1969, required the defendants to consider a geographic zoning method of desegregation (417 F. 2d 348). On remand, the school board filed a geographic zoning plan of desegregation on August 1, 1969. The plan contained a provision pairing the all-white schools located in the City of Pleasant Grove with all-black Woodward School, located just outside the city limits of Pleasant Grove. The schools involved were all operated by the Jefferson County school board at that time.

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county board for further administration" (Pet. App. A–17). On September 24, 1971, the Pleasant Grove Board of Education notified the district court of its intention to operate its own system without transportation. On the same date the court entered an order returning the responsibility for the operation of the schools in Pleasant Grove to the Jefferson County Board of Education (Pet. App. A–22).

The court of appeals affirmed on September 7, 1972 (Pet. App. A–1).

Petitioner does not object to the court-approved plan of desegregation, which assigned to the Pleasant Grove School System students residing outside the boundaries of Pleasant Grove. Petitioner urges, however, that Jefferson County, rather than Pleasant Grove, should have been required to provide the transportation to students assigned to Pleasant Grove Schools who reside outside of walking distance from school. Petitioner also contends that the courts below erred in transferring operation of the schools in Pleasant Grove to Jefferson County upon Pleasant Grove's refusal to provide the necessary transportation.

The courts below correctly concluded that the "county students" assigned to Pleasant Grove "should have the same entitlement to free transportation that they would have received had they been assigned to a school operated by the county board" and that in order for Pleasant Grove to play a proper role in the desegregation of the schools of Jefferson County, the Pleasant Grove School System, rather than Jefferson

County, should be responsible for the transportation (Pet. App. A–15). Since the effect of Pleasant Grove's election to operate its own system without transportation was "to impede the process of dismantling a dual school system," the courts did not abuse their discretion in returning responsibility for the operation of the schools in Pleasant Grove to Jefferson County. *Wright* v. *Council of the City of Emporia*, 407 U.S. 451; *United States* v. *Scotland Neck City Board of Education*, 407 U.S. 484. Consistent with *Wright*, *supra*, the court of appeals directed that "local control * * * should be returned when Pleasant Grove demonstrates * * * that it is able and intends to comply with the court's orders concerning its role in the desegregation of the Jefferson County School District" (Pet. App. A–6).

Since the courts below applied established legal principles to the facts of the case, further review is not warranted.

Respectfully submitted.

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